

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:11-cr-317

v.

HON. JANET T. NEFF

ANDRES VINCENTE DELGADO,

Defendant.

/

MEMORANDUM OPINION AND ORDER

Defendant Andres Vincente Delgado has filed a motion for modification or reduction of sentence (Dkt 138) pursuant to 18 U.S.C. §3582(c)(2) on the basis of Amendment 782 of the United States Sentencing Guidelines, made retroactive by the Sentencing Commission.

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 782 of the United States Sentencing Guidelines reduced by two levels the offense levels assigned to the quantities that trigger the statutory mandatory minimum penalties in U.S.S.G. §§ 2D1.1 and 2D1.11. These modifications were made retroactive effective November 1, 2014. U.S.S.G. § 1B1.10.

However, the defendant appears to be ineligible (Dkt 141) because the mandatory minimum sentence of imprisonment, which is the controlling guideline, was imposed at sentencing. Defendant has filed a response (Dkt 146) and preserves the issue for future consideration should the law change.

Therefore, IT IS HEREBY ORDERED that Defendant's motion for modification of sentence (Dkt 138) pursuant to 18 U.S.C. § 3582(c)(2) is DENIED.

DATED: February 4, 2015

/s/ Janet T. Neff

JANET T. NEFF

United States District Judge